

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Health and Mental Hygiene
(DLS Control No. 15-117)**

Overview and Legal and Fiscal Impact

These regulations implement statutory changes, alter licensing fees, and make additional modifications to update and clarify the requirements and procedures relating to the licensing of environmental health specialists.

The regulations present no legal issue of concern.

There is no material fiscal impact on State or local agencies.

Regulations of COMAR Affected

Department of Health and Mental Hygiene:

Board of Environmental Health Specialists: General Regulations:

COMAR 10.60.01.01-.05

Licensing Procedures: COMAR 10.60.02.01-.06, .08, and .09

Approved Training: COMAR 10.60.03.01 and .02

Fee Schedule: COMAR 10.60.06.01

Legal Analysis

Background

Chapter 667 of 2012 transferred the State Board of Environmental Sanitarians from the Maryland Department of the Environment to the Department of Health and Mental Hygiene and changed the name of the board to the State Board of Environmental Health Specialists. Among other things, Chapter 667 changed the funding source for the board by creating a special fund, modified the qualifications for licensing by the board, and authorized the board to waive specific course work and experience requirements under certain circumstances.

Chapter 254 of 2013 clarified the education requirements for an individual seeking a license as an environmental health specialist. Chapter 254 also altered the circumstances under which the board may waive an examination requirement for an applicant by repealing provisions authorizing a reciprocal agreement with another state, and instead requiring the applicant to (1) be licensed or registered as an environmental health specialist or its equivalent in another state; (2) have passed an examination as a condition of licensing or registration in the other state; and (3) have performed at least 24 months of compensated work as an environmental health specialist or its equivalent in the other state.

Chapter 649 of 2014 required the board to place a licensed environmental health specialist on inactive status for up to four years if the licensee submits a specified application and fee. Chapter 649 also required the board to place a licensee who fails to renew a license on nonrenewed status for up to four years. The board must provide a licensee who is placed on inactive or nonrenewed status specified information relating to the effective date and duration of the status and the consequences of not reactivating the license before the status expires. In addition, the board must reactivate an inactive or nonrenewed license under specified conditions. Finally, Chapter 649 required the board to adopt regulations to establish a seasonal environmental health specialist-in-training program for individuals to be temporarily employed as environmental health specialists, with a condition limiting participation to 6 months within a consecutive 12-month period.

Chapter 94 of 2015 clarified the qualification requirements and application procedures for license as an environmental health specialist, repealed one of the four possible combinations of education and experience that qualify an applicant to take the licensing examination, and made several other administrative and procedural changes to the provisions of law governing the board. Chapter 94 also expanded the education qualifications to include a baccalaureate degree in the chemical sciences and course work in geographic information systems and soil science.

Summary of Regulations

These regulations implement provisions of Chapter 254 of 2013, Chapter 649 of 2014, and Chapter 94 of 2015 and make other changes to clarify and simplify the requirements and procedures relating to the licensing of environmental health specialists. More specifically, in addition to repealing all references to certificates of eligibility for supervised training, the regulations:

Definitions

- alter the definition of the term “environmental health sponsor” to clarify who may serve in this role in the public and private sectors;
- add definitions of the terms “full-time employment”, “permanent employee”, “subject matter expert”, and “temporary employee”;
- repeal the definition of the term “seasonal employee”;

Eligibility for Licensing Examination

- repeal one of the four possible combinations of education and experience that qualify an applicant to take the licensing examination;

Waiver of Examination Requirement

- authorize the board to waive an examination requirement for an applicant who has (1) satisfied the education and experience requirements for eligibility to take the licensing examination; (2) passed a specified examination in another state; and (3)

performed at least 24 months of compensated work as an environmental health specialist or its equivalent in the other state;

Environmental Health Specialist-in-Training Program

- specify the subject areas that must be included in the environmental health specialist-in-training program and repeal former requirements that the board identify the study areas on the licensing examination and classify approved training in the identified areas;
- substitute a requirement that a program sponsor ensure compliance with certain minimum requirements for the former requirement that the sponsor provide a written certification;
- authorize the board to approve and apply experience obtained from prior employment as part of an environmental health specialist-in-training program;
- authorize the board to reduce the required 24-month period of approved training if requested by the environmental health specialist-in-training certificate holder and the sponsor and the certificate holder has completed at least 12 months of training and satisfied certain other requirements;
- specify that each month of full-time employment is credited as one month of experience and each month of less than full-time employment is credited on a prorated basis;
- clarify that, except for a certain internship, approved experience does not include experience obtained to satisfy the degree requirements of an academic institution;

Licensing Procedures

- require an applicant who claims experience as an environmental health specialist to provide independent written verification from the employer describing the nature and duration of the experience instead of the former requirement of three reference letters;
- require the board to notify an applicant of a need for additional information within 45 days of receipt of the application;
- clarify that the board must provide an applicant written notice of an incomplete application, stating the reasons and that the application will be invalid in one year;
- require the board to post examination dates on the board's website;
- authorize an applicant for reexamination to apply directly to a recognized examination service to take the on-line version of the examination;
- specify the criteria for board recognition of an applicant as outstanding in the field of environmental health and, therefore, qualified for an examination waiver;

- prohibit the board from renewing an environmental health specialist-in-training certificate for which the expiration date has been extended;
- authorize the board to renew a temporary employee's environmental health specialist-in-training certificate for a period of 24 months;
- for a temporary employee who becomes a permanent employee, (1) require the employee to submit the environmental health specialist-in-training certificate to the board within 30 days; (2) require the board to issue a new certificate that is valid for 36 months; and (3) authorize the board to reduce the required number of months in a training program;

Inactive or Nonrenewed Status

- repeal provisions relating to the "reinstatement" of a license;
- require the board to place a licensed environmental health specialist on inactive status for a period not exceeding four years if the individual submits a written application for inactive status and the required fee;
- require the board to place a licensed environmental health specialist on nonrenewed status for a period not exceeding four years if the individual fails to renew a license;
- require the board to provide specified information to an individual who is placed on inactive or nonrenewed status;
- require the board to reactivate the license of an environmental health specialist who applies for reactivation before the inactive or nonrenewed status expires if the individual (1) complies with the license renewal requirements in effect at that time; (2) has completed 20 credit hours of approved continuing education in the preceding 24-month period; and (3) pays the reactivation fee;
- require the board to reactivate the license of an environmental health specialist who applies for reactivation after the inactive or nonrenewed status expires if the individual (1) provides any documentation required by the board; (2) passes the examination required at that time; and (3) pays the reactivation fee;

Board-approved Training

- specify that on-line courses, with satisfactory proof of completion, may constitute approved training;
- clarify that *authoring* a paper published in a professional journal requiring peer review may constitute approved training;
- specify that approved training is credited to the license renewal period in which the training is obtained;

- clarify that a transcript from an educational institution must attest to the satisfactory completion of training in order to constitute proof of the training;

Fee Schedule

- repeal (1) the \$100 fee for an application for a license by reciprocity; (2) the \$100 fee for reinstatement of a license (charged in addition to the license renewal fee); and (3) the \$25 fee for examination score verification;
- establish a \$300 reactivation processing fee to change from inactive to active status;
- establish a \$500 reactivation processing fee to change from nonrenewed to active status;
- establish a \$25 inactive status fee; and
- establish a \$25 fee for a 24-month renewal of a temporary employee's environmental health specialist-in-training certificate.

Legal Issue

The regulations present no legal issue of concern.

Statutory Authority and Legislative Intent

The department cites §§ 21-101, 21-205, 21-206, 21-301 through 21-307, 21-309, and 21-310 of the Health Occupations Article as legal authority for the regulations. More specifically, § 21-205(a)(1) authorizes the board to adopt rules, regulations, and bylaws to carry out the provisions of law governing the licensing and practice of environmental health specialists. Section 21-206(c) authorizes the board to set reasonable fees for the issuance and renewal of licenses and other services provided by the board to approximate the cost of maintaining the board. Sections 21-302(3) and (4) require an applicant for a license to demonstrate to the satisfaction of the board that the applicant has satisfied specified education and experience requirements and passed a specified examination. Section 21-303 requires an applicant for a license to submit a specified application form, an official transcript, the application fee, and written verification from an employer or supervisor that the applicant has successfully completed an environmental health specialist-in-training program.

Section 21-304(b) sets forth three possible combinations of education and experience that qualify an applicant to take the licensing examination. Section 21-304(c) authorizes the board to waive any specific course requirement if an applicant has obtained an equivalent number of credit hours in a relevant course or has work experience that is an acceptable substitute. This section also authorizes the board to waive the experience requirement if the applicant has at least 12 months of experience in an environmental health specialist-in-training program and the written support of the applicant's employer. Section 21-304(i) authorizes the board to waive any examination requirement if the board recognizes the applicant as outstanding in the field of environmental health.

Section 21-305 requires the board, by regulation, to establish an environmental health specialist-in-training program that includes a condition prohibiting participation for more than three years unless the board grants an extension. The regulations also must establish a seasonal training program for individuals to be temporarily employed as environmental health specialists, with a condition limiting participation to 6 months within a 12-month period.

Section 21-306 authorizes the board to waive an examination requirement for an applicant who (1) is licensed or registered as an environmental health specialist or its equivalent in another state; (2) pays the application fee; and (3) provides evidence that the applicant meets the qualifications for licensing in Maryland, passed an examination as a condition of licensing or registration in the other state, and has performed at least 24 months of compensated work as an environmental health specialist or its equivalent in the other state.

Section 21-309 authorizes the board to renew a license for a two-year term if the licensee submits, among other things, proof of certain approved training. Section 21-310 requires the board to (1) place a licensee on inactive or nonrenewed status for a period not to exceed four years in certain circumstances; (2) provide written notice specifying certain dates and the consequences of not reactivating the license before the inactive or nonrenewed status expires; and (3) reactivate a license in specified circumstances.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

Technical Corrections and Special Notes

Please note that the department has submitted substitute pages containing corrections made after the submission of the regulations to the committee. The substitute pages alter COMAR 10.60.01.03B, which sets forth the possible combinations of education and experience that qualify an applicant to take the licensure examination, to repeal “Combination 1” (baccalaureate degree in environmental science or environmental health) rather than “Combination 4” (master’s degree in public or environmental health). The substitute pages also modify the examination waiver provision in COMAR 10.60.01.04A(2) to require the applicant to be licensed or registered as an environmental health specialist or its equivalent in another state and to have passed an examination “as a condition of licensure or registration in another state” rather than an examination that is “substantially equivalent to the [b]oard’s examination”. Finally, the substitute pages correct an inaccurate cross-reference in COMAR 10.60.01.05B(2)(a).

Please also note that the department has been notified that the new provision in COMAR 10.60.02.04E(2), which allows an applicant for reexamination to apply directly to the examination service to take the on-line version, is not consistent with § 21-304(i) of the Health Occupations Article, which requires an applicant to submit the application to the board and pay the fee to the board.

Fiscal Analysis

There is no material fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The regulations implement statutory changes, modify and clarify the requirements and procedures relating to the licensing of environmental health specialists, and alter board fees. The majority of these changes implement provisions of Chapter 254 of 2013, Chapter 649 of 2014, and Chapter 94 of 2015. Regarding board fees, the regulations repeal the current \$100 reinstatement fee and instead establish new reactivation processing fees of \$300 for licensees who are changing from inactive status to active status and \$500 for licensees who are changing from nonrenewed status to active status. The regulations also repeal the \$100 license-by-reciprocity fee and the \$25 examination-score-verification fee and establish a \$25 inactive status fee and a \$25 fee for a 24-month renewal of an environmental health specialist-in-training certificate.

The department advises that the regulations have an indeterminate fiscal impact as the board cannot estimate the number of licensees that will apply for inactive status, reactivation, renewal of a certificate, or licensure by reciprocity. The Department of Legislative Services anticipates that, given the relatively small number of licensees who renewed their licenses late (17) or applied for reinstatement (9) in fiscal 2014, the fee changes likely have no material impact on special fund revenues for the board. The Department of Legislative Services notes that, with respect to other changes in the regulations, the fiscal and policy notes for Chapter 254 of 2013, Chapter 649 of 2014, and Chapter 94 of 2015 each assumed no material fiscal impact on State or local governments.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have minimal or no economic impact on small businesses. The Department of Legislative Services concurs.

Additional Information

The regulations only partially implement changes to licensing and examination requirements for environmental health specialists as established by Chapter 94 of 2015. The board advises that it plans to offer further amendments in future regulations to fully implement Chapter 94.

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